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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,978	10/09/2003	Dan W. Dansie	3351.2.1	7796

28049 7590 10/28/2004

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EXAMINER

RAMIREZ, RAMON O

ART UNIT PAPER NUMBER

3632

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/681,978

Applicant(s)

DANSIE, DAN W.

Examiner

RAMON O. RAMIREZ

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29 and 30 is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-22 and 24-28 is/are rejected.
- 7) ☒ Claim(s) 7, 8 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/26/04</u> . | 6) <input type="checkbox"/> Other: _____  |

*Detailed Action*

This is the second Office Action corresponding to arguments filed Oct 4, 2004. The application contains 30 claims. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

*Information Disclosure Statement*

Receipt is acknowledged of Information Disclosure Statement filed Jan 26, 2004, which has been reviewed by the Examiner.

*Claim Rejections - 35 USC § 103*

Claims 1-6, 9-22, and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mahan (Pat No 2,500,257) in view of Birdwell (6,158,876). The patent to Mahan shows a flashlight holder comprising an attachment member and a grip member (22) extending from the attachment member, both elements sharing an outer surface. The patent to Birdwell was explained in the former Office Action. It would have been obvious to one skilled in the art at the time the invention was made to have made the attachment member of Mahan flexible as shown by Birdwell to facilitate the use of the device, since it would not required to tie the attachment member. The specific material from which the device is made is considered to be an obvious matter of engineering choice having no patentable significance in the absent of unexpected results.

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As to claims 9, 10 and 28, the shape of this combination can be considered to be cylindrical.

Claims 9, 10 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mahan (Pat No 2,500,257) in view of Birdwell (6,158,876) and Praticca et al. (Pat No 5,580,157).

The patent to Praticca et al. shows another flashlight holder comprising a cylinder portion for receiving a flashlight. It would have been obvious to one skilled in the art at the time the invention was made to have provided the device shown by Birdwell with a cylinder portion to increase the gripping force around the flashlight and better securing it.

#### *Allowable Subject Matter*

Claims 7, 8 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 29 and 30 are allowed.

#### *Response to Arguments*

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Colby (2,244,288), Sedlock (3,418,461) and Kellough (6,769,788) show flashlight holder secured by the mouth of the user.

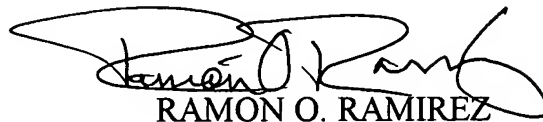
Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMON O. RAMIREZ whose telephone number is (703) 308-0748. The examiner can normally be reached on MONDAY-FRIDAY, IST FRIDAY OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LESLIE BRAUN can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A shortened period for response to this Office Action expires **THREE MONTHS**  
from the mailing date of this action.

A handwritten signature in black ink, appearing to read 'Ramon O. Ramirez', is written over a horizontal line.

RAMON O. RAMIREZ

Primary Examiner

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ROR

October 25, 2004